

Appl. No. 09/716,740
Atty. Docket No. 5922R2C3
Amdt. Dated October 3, 2003
Reply to Office Action of August 4, 2003
Customer No. 27752

REMARKS

Claims 1-18, 38-55, 75, 80-81, and 86-102 remain in the present Application. Claims 38 and 86 have been amended. Claim 38 has been amended to require the storage wrap material comprise a sheet of non-porous material and that the active side of the storage wrap material be capable of forming a continuous seal. Support for the current Amendment to Claim 38 is found in the Specification on page 25, lines 36-37; page 6, line 37-page 7, line 4; and page 26, lines 28-30. Claim 86 has been amended to require that the active side of the storage wrap material be capable of forming a continuous seal. Support for the current Amendment to Claim 86 is detailed *supra*. No new matter has been added. Further, no additional claims fee is believed to be due.

Rejection Under 35 U.S.C. §112, ¶2

Claims 1-18, 38-55, 75, 80-81, and 86-102 were rejected under 35 U.S.C. §112, ¶2. Particularly, the Examiner stated that independent Claims 38 and 86 are virtually identical. Applicants respectfully traverse this rejection. Claim 38 comprises a claim element not present in Applicants' Claim 86. Thus, it can be seen that Applicants' Claim 86, directed towards a storage wrap material, would read on the storage wrap material claim of Applicants' Claim 38.

Applicants respectfully direct the Examiner's attention to M.P.E.P. §806.04(d). In particular, the M.P.E.P. states that, "A generic claim should read on each of the [embodiments]. A generic claim should include no material element additional to those recited in the species claims, and must comprehend within its confines the organization covered in each of the species." Thus, Applicants respectfully believe that Claim 38 and Claim 86 are related by way of genus-species. Applicants respectfully request withdrawal of the 35 U.S.C. §112, ¶2 rejection.

Double Patenting Rejection

Claims 1-18, 38-55, 75, 80-81, and 86-102 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-9 of co-pending Application No. 10/027,613. Pursuant to M.P.E.P. §1490, Applicants enclose an appropriate Terminal Disclaimer compliant with 35 U.S.C. §253, 37 C.F.R. §1.321, and 37 C.F.R. §3.73.

Rejection Under 35 U.S.C. §103(a)

Claims 1-18, 38-55, 75, 80-81, and 86-102 were rejected under 35 U.S.C. §103(a) over Wilbur, U.S. Patent No. 2,338,749. Applicants respectfully traverse this rejection for the following reasons:

1. Applicants' invention, as now claimed in Amended Claim 38 and Claim 86, requires a storage wrap material to comprise a sheet of non-porous material.

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2. Further, as now claimed in Applicants' Amended Claims 38 and 86, the active side of the sheet of non-porous material is capable of forming a **continuous** seal.

3. Contrary to Applicants' claimed invention, *Wilbur* does not provide or suggest an adhesive disposed continuously over a non-porous material.

4. In fact, the *Wilbur* reference is silent with respect to providing a continuous adhesive disposed upon a non-porous substrate.

Applicants respectfully remind the Examiner that resiliency is not equivalent to conformability. Resiliency is related to the crushability and the ability of a material to stay crushed (i.e., function of tensile modulus). Conformability is the ability of a material to conform to an object (i.e., function of flexural modulus). In other words, the differences can be related by plasticity versus elasticity.

Because of these considerations, the *Wilbur* reference does not suggest what Applicants claim as their invention. The *Wilbur* reference fails to disclose, teach, suggest, or render obvious every recited feature of Applicants' claimed invention. Further, absent any motivation to provide Applicants' storage wrap material, the *Wilbur* reference cannot render any of the rejected claims obvious. *See In re Fine*, 837 F.2d 1071 (Fed.Cir. 1988); M.P.E.P. §2143.01. Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Applicants' independent Claims 38 and 86.

Because dependent Claims 1-18, 39-55, 75, 80-81, and 87-102 all depend directly or indirectly from Applicants' independent Claims 38 or 86, they contain all their respective limitations. For this reason, Applicants respectfully submit that the arguments made above concerning allowability of the independent claims discussed *supra* are equally applicable to the rejection of Claims 1-18, 39-55, 75, 80-81, and 87-102 under 35 U.S.C. §102(b). Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §102(b) rejection to Claims 1-18, 39-55, 75, 80-81, and 87-102.

Conclusion

Based on all the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

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This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512.
If any additional charges are due, the Examiner is authorized to deduct such charges from Deposit
Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,

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